

FIREMAN'S FUND AGRIBUSINESS,
(Compliance Case SRCO-718)

Appellants

Representing the Appellants:

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AGBCA No. 2004-159-F

ORDER OF THE BOARD OF CONTRACT APPEALS

February 2, 2006

Opinion for the Board by Administrative Judge VERGILIO.

On April 12, 2004, the Board received a notice of appeal from Fireman's Fund AgriBusiness of Overland Park, Kansas (insurance company). The notice of appeal identifies the dispute as arising under a Standard Reinsurance Agreement (SRA) in a compliance case, number SRCO-718, involving policy 350053 of Jack Storm, and policy 350054 of Storm Brothers. The Deputy Administrator of Compliance, of the Risk Management Agency (RMA) of the U. S. Department of Agriculture, concluded that the insurance company is liable for an indemnity overpayment of \$834,649 and a premium overstatement of \$230,359 under the first policy, and is liable for an indemnity overpayment of \$449,875 and a premium overstatement of \$103,761 under the second policy. The pertinent watermelon pilot crop provision provides for insurance for field grown watermelons that are grown by a person who in at least one of the three previous crop years either grew watermelons for commercial sale or participated in managing a watermelon farming operation. These insureds relied upon the experience of an individual. The Government concludes that the individual lacked the requisite experience.

Regulation authorizes this Board to resolve this timely-filed matter. 7 CFR 24.4(b), 400.169(b), (d). Following the submission of the appeal file, complaint, and answer, while the parties were engaged

in discovery, the Government submitted a motion and brief (including exhibits) in support of summary judgment. Thereafter, in lieu of a response by the insurance company, the parties elected to engage in a one-day mediation before Administrative Judge Pollack from this Board. A successful mediation session was held on November 30, 2005.

On February 1, 2006, the Board received from the parties a stipulation of dismissal with prejudice. The parties agree and stipulate that this Board action, and the compliance case, is dismissed with prejudice, with each party to bear its own attorney fees and costs.

DECISION

Based upon the request of the parties, this matter is dismissed with prejudice.

JOSEPH A. VERGILIO
Administrative Judge

Issued at Washington, D.C.
February 2, 2006